

AMOUNT \$ 150
 SUMMONS ISSUED yes
 LOCAL RULE 4.1
 WAIVER FORM
 MCF ISSUED
 BY DPTY. CLK. V. M. Abreu
 DATE 2-6-04

FILED
 IN CLERKS OFFICE

UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF MASSACHUSETTS

C. A. No. 03 CV 0001
 DISTRICT OF MASS.

ARTHUR PERNOKAS and }
 DIANNE PERNOKAS, }
 }
 Plaintiffs }
 }
 v. }
 }
 BARRIE PASTER, MD, }
 }
 Defendant }

COMPLAINT AND
 DEMAND FOR A JURY TRIAL

04-10258 NG

MAGISTRATE JUDGE Alexander

PARTIES

1. Plaintiff Arthur Pernokas resides at 14 Witch Lane, Plaistow, New Hampshire, with his wife, Plaintiff Dianne Pernokas.
2. Defendant Barrie Paster, MD, is a physician licensed to practice medicine in Massachusetts with an office located at 24 Morrill Place, Amesbury, Massachusetts.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this action pursuant to 28 U.S.C. 1332 in that plaintiffs are citizens of the State of New Hampshire, defendant has his principal place of business in the Commonwealth of Massachusetts, and the amount in controversy exceeds \$75,000, exclusive of interest and costs.
4. Venue pursuant to 28 U.S.C. 1391 is appropriate insofar as a substantial portion of the events or omissions giving rise to the plaintiff's claim occurred in Amesbury, Massachusetts.

FACTS COMMON TO ALL COUNTS

3. At all times material hereto, Arthur Pernokas sought and received medical treatment and care from the defendant.
4. At relevant times Defendant unskillfully and negligently followed, examined, diagnosed and/or failed to diagnose, and failed to take timely and appropriate actions with regard to Arthur Pernokas's medical condition.
5. On or about February 1997 until on or about March 2002, a doctor - patient relationship existed between Authur Pernokas and Dr. Paster
6. Between the approximate dates of September 1998 and June 2001 Arthur Pernokas sought treatment from the defendant, wherein he complained of severe rectal bleeding, abdominal pains and cramps, and unexplained significant weight loss.
7. During the course of defendant's care of Arthur Pernokas, the defendant continuously mis-diagnosed the plaintiff and treated him for hypercholesterolemia.
8. With persistent symptoms, on or about March 14, 2002, Arthur Pernokas sought treatment with Dr. Putnam Breed, MD.
9. Following a series of tests, Dr. Breed performed surgery on Arthur Pernokas, discovering and removing a large tumor in the plaintiff's right colon and, ominously, tumors in 3 of the 14 lymph nodes.
10. The tumor was classified as Stage III cancer by Dr. Breed, who reported that proper testing and screening of Arthur Pernokas by Dr. Paster would have reduced the risk of incidence of, and mortality from, the colon cancer.
11. By reason thereof, Arthur Pernokas has suffered damages in the loss of an opportunity to arrest his cancer at an earlier stage, a decreased life expectancy, depreciation of quality of life, pain, suffering, and substantial medical expenses.
12. By reason thereof, Dianne Pernokas has suffered damages in the loss of consortium and services of her husband, Arthur Pernokas.

CLAIMS

COUNT I

13. Defendant Barrie Paster, MD, in his care or treatment of Arthur Pernokas and in his failure to make a timely and proper diagnosis of Arthur Pernokas' cancer, failed to conform to the standard of care required of the average, qualified medical practitioner, and

as a direct and proximate result, the plaintiff Arthur Pernokas suffered harm, including but not limited to the loss of an opportunity to arrest his cancer at an earlier stage, a decreased life expectancy, depreciation of quality of life, pain, suffering, and substantial medical expenses.

COUNT II

14. Defendant Barrie Paster, MD, in his care or treatment of Arthur Pernokas and in his failure to make a timely diagnosis of Arthur Pernokas' cancer, failed to conform to the standard of care required of the average, qualified practitioner, and as a direct and proximate result, the plaintiff Dianne Pernokas suffered harm, including but not limited to, the loss of consortium and services of her husband, Arthur Pernokas.

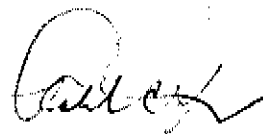
PRAYERS FOR RELIEF

WHEREFORE, Plaintiffs Arthur Pernokas and Dianne Pernokas demand judgment against the defendant, in an amount to be determined by the Court, plus interest, costs, attorneys fees and such additional and further relief as this Court deems just.

DEMAND FOR JURY TRIAL

Plaintiffs in this action hereby claim trial by jury as to all issues raised in the Complaint.

By Their Attorney,



Robert C. Gabler, Esq.
BBO # 547227
Suite 3232
100 Summer Street
Boston, MA 02110
(617) 542-2121